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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 30TH DAY OF JUNE 1998 ✓

BEFORE

THE HON'BLE MR. JUSTICE CHANDRASHEKARAI AH ✓

WRIT PETITION NO.4381/1991. ✓

BETWEEN:

Bharamappa,  
Adopted Father  
Cheenappa Timmannavar,  
Major, Occ: Agril,  
resident of Karajagi,  
Taluk: Haveri,  
District: Dharwad.

U  
: PETITIONER

(Sri.F.V.Patil for Petitioner)

AND:

1. The State of Karnataka  
represented by its  
Revenue Secretary,  
Vidhana Soudha,  
Bangalore-560 001.
2. The Deputy Commissioner,  
Dharwad District, Dharwad.
3. The Assistant Commissioner,  
Haveri, Sub-Division, Haveri,  
Taluk: Haveri, Dist: Dharwad.

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4. Shankarappa Veerappa  
Davanageri, Major,  
resident of Karajagi,  
Taluk: Haveri,  
Dist: Dharwad.

5. Smt.Kallavva,  
Major, resident of Dharwad  
District; Dharwad.

: RESPONDENTS

(Sri.K.Nagaraja, HCGP, for R-1 to R-3.  
W.P. is dismissed against R-4 v.c.o. dt.31.1.97.  
R-5 deleted v.c.o. dt.20-6-97)

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This Writ Petition filed under Articles 226  
and 227 of the Constitution of India with an affi-  
davit praying to quash Annexure-C and D dt.21.1.89  
bearing No.LQ/HS/CR-2/88-89 and dt.20.12.90 bearing  
No.LQ/HS/CR-2/88-89 issued by R2 respectively and  
etc.,

This Writ Petition coming on for hearing this  
day, the Court made the following:

O R D E R

T.by:JL (c.t. only)

R.by: *10/11/98*

C.by: *[Signature]*

CSJ  
30-6-98.

WRIT PETITION NUMBER 4381 of 1991.

The petitioner is the owner of the land measuring 4 acres in R.S.No. 209/2 of Karjagi village, Haveri taluk. The said land was proposed for acquisition under the notification dated 21.1.1989 issued by the Deputy Commissioner Under Section 3(1) of the Karnataka Acquisition of Land for Grant of House Sites Act (hereinafter referred to as the Act). In the said notification, the name of the petitioner was shown as the khatedar of the land in question. This notification was followed by a final notification dated 20.12.1990 issued under Section 3(4) of the Act.

2. The case of the petitioner is that he was not served with a notice pursuant to the preliminary notification since his mother's name was shown in the preliminary notification, though she was dead. The respondent in the statement of objections has admitted that no notice is given to the petitioner. But what is stated in the statement of objection is that



the petitioner has filed objections objecting for the acquisition. In order to show that the petitioner has filed objections, the State Government has not produced any material ~~on record~~. In the absence of non-production of records by the State Government, it is not possible to believe the statement made in the statement of objections filed by the respondents. Therefore, in my view, the final notification issued pursuant to the preliminary notification is liable to be quashed, as the petitioner is deprived of an opportunity of hearing.

3. In the result, I pass the following order:

The writ petition is allowed. The final notification dated 20.12.1990 issued under Section 3(4) of the Act is quashed in so far as the land of the petitioner is concerned. However liberty is reserved to the respondent to proceed with the acquisition proceedings pursuant to the preliminary notification.



Sd/-  
JUDGE

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